

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION

MARI COTTRILL, Plaintiff

v.

No. 2:99CV109-EMB

TEREX CORPORATION, MURRAY SCOTT,
ERIC DUGGAN and HOSNY ALY, Defendants

OPINION

Plaintiff filed this action through counsel on May 27, 1999, alleging claims under the Racketeering Influenced and Corrupt Organizations Act. The plaintiff's claims against Terex, Scott and Duggan were dismissed by Final Judgment entered on January 7, 2000.

On December 28, 1999, the clerk of the court advised counsel for the plaintiff that she had failed to properly serve defendant Hosny Aly, a resident of Egypt, within 120 days as required by Rule 4(m), Federal Rules of Civil Procedure. The notice recited:

Rule 4(m) provides that an action shall be dismissed without prejudice as to this ... defendant unless you can demonstrate good cause to the court why such service was not made within the period. You are hereby notified that you must comply with this requirement within 10 days of receipt of this notice. At the end of the period, the record will be forwarded to the district judge to whom the action is assigned for a determination of whether you demonstrated good cause. **Failure to respond to this notice within the time allotted will result in dismissal of the action without prejudice.**

Although the 10 days allowed therefor has passed, the plaintiff has not responded to the notice; neither has she sought an enlargement of time within which to serve the defendant, nor offered any explanation for her failure to do so.

Plaintiff's failure to serve the defendant is clear evidence of her lack of interest in maintaining the action against Aly, and the court is therefore of the opinion that all of plaintiff's claims against defendant Hosny Aly should be dismissed without prejudice, pursuant to Rule 4(m), F.R.C.P., and

this action finally closed. An order consistent with this opinion shall enter this same date.

THIS, the ___ day of January, 2000.

CHIEF JUDGE

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TEREX CORPORATION, MURRAY SCOTT,
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FINAL JUDGMENT

In accordance with the Opinion this day entered, it is
hereby

ORDERED:

That all of plaintiff's claims against defendant Hosny Aly
be, and are hereby, dismissed without prejudice, pursuant to Rule
4(m), F.R.C.P. The clerk is directed to close the case.

This, the ____ day of January, 2000.

CHIEF JUDGE